



The Facts vs. Sierra Club Fiction about MDEQ v. Vreba-Hoff Dairy, LLC

Q: What is the history of MDEQ's legal action against Vreba-Hoff?

A: In 2003, MDEQ and Vreba-Hoff settled two MDEQ lawsuits addressing the runoff (called discharges) of manure spread on its fields, one against each of Vreba-Hoff's two dairies. However, Vreba-Hoff continued to experience discharges despite its efforts to avoid them, resulting in another lawsuit and settlement with a Consent Judgment in December 2004. Now MDEQ claims that Vreba-Hoff has violated the 2004 Consent Judgment, and MDEQ has filed contempt charges with the Court.

Q: What did the 2004 Consent Judgment require Vreba-Hoff to do?

A: The main objective of the Consent Judgment is to prevent discharges of manure into streams. During settlement negotiations, Vreba-Hoff proposed to install a press treatment system at a cost of \$1.1 million to treat the manure before it is spread on the fields. This is an innovative treatment system that only four dairies in the country have installed, and which exceeds the legal requirements for avoiding discharges. MDEQ accepted this proposal and touted it as a landmark arrangement. Vreba-Hoff also agreed to a multitude of additional safeguards to prevent discharges.

Q: How has the press treatment system performed?

A: The manufacturer delivered equipment that was defective and that has repeatedly broken down, resulting in an accumulation of untreated manure at the dairies. The manufacturer continues to work with the dairy to perfect the system, and progress is being made. The system is now able to treat more manure than the cows produce.

Q: What does MDEQ allege in the charges?

A: Primarily, MDEQ falsely contends that the Consent Judgment requires Vreba-Hoff to treat the dairies' manure at a rate equal to the cow's production of the manure, so that an accumulation of untreated manure at the dairies violates the Judgment. MDEQ also alleges that Vreba-Hoff spread untreated manure on fields, spread untreated manure in the Lime Lake watershed, did not timely install water level markers in some manure ponds, did not separate sand bedding from manure, had two unlawful discharges of manure from fields into streams, failed to submit some monthly progress reports, and spread manure during the winter.



Q: What caused the accumulation of untreated manure at the dairies?

A: First, MDEQ was late in reviewing and approving Vreba-Hoff's work plan for constructing the press treatment system, resulting in a two and half month backlog of manure before Vreba-Hoff was able to start the system. Second, the treatment equipment has constantly malfunctioned and broken down. Third, the old manure backlogged from MDEQ's late plan approval has proven to be difficult to treat, slowing efforts to reduce the backlog.

Q: Did Vreba-Hoff hide from MDEQ the problems it was having with malfunctions of the press treatment system?

A: No. Although Vreba-Hoff failed to submit monthly progress reports for five months during 2006 due to its mistaken belief that reports were not required after six months, MDEQ was fully aware of the situation. MDEQ inspected the dairies at least 25 times during 2006, as well as checking the system's operational status with the dairy's manager by telephone. Vreba-Hoff freely informed MDEQ about the system's operational difficulties throughout the year, and MDEQ's inspectors saw firsthand that the system was inoperable during many of their visits.

Q: Does the manure backlog violate the Consent Judgment?

A: No. The Judgment is designed to prevent manure discharges, and for that reason, it requires Vreba-Hoff to treat the manure before spreading it on fields to further minimize the risk of field runoff. The Consent Judgment allows Vreba-Hoff to safely store untreated manure at the dairies while awaiting treatment. MDEQ is misinterpreting the Consent Judgment to support its argument that manure may not accumulate during periods when the treatment system fails to keep up with manure generation.

Q: What is MDEQ asking the Court to order Vreba-Hoff to do?

A: Even though the manure backlog is due in large part to MDEQ's negligence, MDEQ says it will ask the Court to order Vreba-Hoff to reduce its dairy herds from 6000 cows to about 3700 cows so that manure production will not exceed the past average treatment rate accomplished by the press treatment system. MDEQ is also asking Vreba-Hoff to pay penalties, contract with an engineering consultant for advice on improving the reliability of the press treatment system, submit a plan for upgrading the operation of the press treatment system, hire a certified wastewater operator for the press treatment system, and submit a plan for emptying the full manure ponds.



Q: What will happen to the cows if MDEQ forces Vreba-Hoff to reduce the dairy herds?

A: It is highly unlikely that another farmer will have empty barns ready to accept 2500 cows or even a significant portion of that many cows at the time the herd reduction would occur. Consequently, the cows would likely have to be slaughtered. Moreover, it would be impossible for Vreba-Hoff to pay for its expensive, advanced treatment system if the herds were reduced.

Q: Is cow reduction necessary to enable the press treatment system to keep pace with the manure the dairies produce?

A: No. The manufacturer of the press treatment system has guaranteed that the system will treat 300 gallons of manure per minute, while the current dairy herds produce only 88 gallons per minute. Due to recent improvements in the system, it has been able to operate at a rate of 90 to 120 gallons per minute, more than enough to handle the dairies' manure. Vreba-Hoff is working to increase the treatment rate further and improve the system's reliability by installing additional equipment, working with an engineering consultant, and purchasing spare parts to have on hand to quickly repair future breakdowns.

Q: Is Vreba-Hoff planning to increase the herd size at the dairies?

A: Vreba-Hoff has built new barns at Vreba-Hoff Dairy I for 780 cows. The new cows are necessary to pay for the innovative pollution control technology Vreba-Hoff has installed. However, Vreba-Hoff has agreed not to stock the barns until its present press treatment system is operating at a rate sufficient to handle their manure. Once the system attains a treatment rate of 99 gallons per minute, the system will be able to handle the manure from the expansion.

Q: Do larger livestock farms such as Vreba-Hoff's dairies pose more risk to the environment than small farms?

A: No, larger dairies are held to stricter pollution control standards than small farms. They also confine their animals in buildings where the manure can be controlled and collected, unlike pastures where the manure is more likely to run into a stream.



Q: What has been Vreba-Hoff's compliance record for manure discharges since the December 2004 Consent Judgment?

A: Vreba-Hoff has had no overflows of its manure storage ponds into any streams. Moreover, by carefully following the practices specified in the Consent Judgment for spreading manure on its fields, Vreba-Hoff achieved a perfect compliance record of no discharges from its fields for two years. MDEQ contends that Vreba-Hoff recently has had two unlawful discharges from land application of manure, but the evidence is insufficient to show that unlawful incidents actually occurred.

Q: Has Vreba-Hoff spread untreated manure on its fields?

A: The only wastes spread on the fields without treatment consisted of sand from the cows' bedding containing minor amounts of manure. This land application was unavoidable when the dairies' sand separation equipment failed to separate the manure from the sand bedding, resulting in full sand settling basins while Vreba-Hoff searched for new technology to separate the sand. On the other hand, the liquid manure spread in January of this year, and at all other times, was treated.

Q: Why did Vreba-Hoff spread manure this winter?

A: Constant rain during the fall kept the fields too wet to safely apply enough manure to empty the dairies' manure ponds before winter. In fact, precipitation occurred on 32 of the 91 days between September 15 and December 15, 2006 when most land application is supposed to occur. During the same time, there were only 26 sunny or mostly sunny days, so the fields stayed wet between rainfalls. Consequently, Vreba-Hoff was forced to spread manure this winter to prevent the manure ponds from overflowing.

Q: Did the backlog of untreated manure make it necessary for Vreba-Hoff to spread manure this winter?

A: No. Vreba-Hoff did not spread any untreated manure this winter. The untreated manure has stayed in safe storage. Consequently, there is no causal relationship between the winter application and the storage of untreated manure that MDEQ falsely argues is a violation of the Consent Judgment.



Q: What did Vreba-Hoff do to minimize its application of manure on fields this winter?

A: Vreba-Hoff constructed an engineered storage pond in accordance with time-tested, government-designed construction standards at a cost of \$130,000 to store manure this winter and avoid land application. This pond utilizes liner technology proven to prevent seepage of manure into the groundwater. As a result, only four days of land application have been necessary this winter. Contrary to Sierra Club allegations, this pond is not an environmental detriment, but a benefit.

Q: Was it illegal to construct the emergency storage pond without a groundwater quality permit from MDEQ?

A: No. The Consent Judgment authorizes manure storage structures to be constructed by the dairies without a groundwater permit. Accordingly, it came as no surprise that MDEQ officials expressed no objection when Vreba-Hoff informed MDEQ of its plans to construct the pond during our meeting on December 11, 2006, when Vreba-Hoff included the pond construction in its December 15, 2006 written action list, or when Vreba-Hoff invited an MDEQ inspector to view the construction on December 21, 2006. It was only on January 4, 2007, after the Sierra Club complained about the pond, that MDEQ unexpectedly objected to the pond. By that time, the pond was almost finished.

Q: Was it necessary for MDEQ to file its charges to stop the winter manure application?

A: No. Vreba-Hoff had already notified MDEQ that it had ceased winter application before MDEQ filed its charges, because the satellite pond was ready for use.

Q: Is it illegal to spread manure in the winter?

A: The Consent Judgment allows winter application if necessary to prevent the dairies' manure ponds from overflowing, provided the dairies used their best efforts to empty the ponds during the fall. In this instance, Vreba-Hoff removed as much manure from the ponds as possible during the fall given the wet weather conditions. Therefore, this winter application was authorized by the Consent Judgment. Ironically, by arguing that Vreba-Hoff could not apply manure this winter, MDEQ seeks to punish Vreba-Hoff for dutifully refraining from fall application during wet weather that could have resulted in manure discharges.

Q: Does winter manure application harm the environment?

A: Not if performed properly, as Vreba-Hoff performed it. Vreba-Hoff followed several safeguards to prevent manure from running into streams, including staying farther than usual from the streams while spreading.



Q: Why shouldn't Vreba-Hoff have to pay a large monetary penalty for violating the Consent Judgment?

A: Most of MDEQ's charges are based on misinterpretations of the Consent Judgment's requirements and mistaken factual contentions. While there were some technical violations of the Consent Judgment, they were minor and unintentional. Vreba-Hoff did not harm public health or the environment.

Q: Is there any truth to the statements by MDEQ's spokesman that Vreba-Hoff has not cooperated with MDEQ and did not respond to MDEQ's request to meet with the department about these issues?

A: The opposite is true. MDEQ's attorney sent a letter on December 1, 2006 notifying Vreba-Hoff that MDEQ wished to discuss these issues. Vreba-Hoff met with MDEQ on December 11 and sent MDEQ a long list of actions for addressing MDEQ's concerns on December 15. While MDEQ failed to respond to Vreba-Hoff's list until January 4, 2007, Vreba-Hoff continued to work on solutions to the problems in the meantime. On January 16, 2007, we sent MDEQ a detailed 32-page proposal.

Q: What actions is Vreba-Hoff planning to take to address the issues raised by MDEQ?

A: Even before MDEQ filed its charges, Vreba-Hoff submitted a 32-page proposal describing improvements it will make in its manure management and treatment facilities. Except for eliminating cows and paying penalties, it has committed to do everything requested by MDEQ's charges. It is close to finalizing a contract with an engineering consultant for advice on improving the reliability of the press treatment system. It is already interviewing candidates for employment as a certified wastewater operator. It has proposed a plan for emptying the full manure ponds, and has proposed actions for upgrading the operation of the press treatment system.

Q: What is the cost of the new manure management and treatment facilities that Vreba-Hoff is proposing to purchase?

A: The approximate cost is \$2 million, in addition to the \$1.1 million press treatment system already in place. About half of the \$2 million is the cost of another manure treatment system to supplement the press treatment system and significantly enhance Vreba-Hoff's ability to handle manure.



Q: How much effort has Vreba-Hoff made to address the environmental issues at the dairies?

A: Environmental issues are a high priority at the dairies as demonstrated by the amount of time and money Vreba-Hoff has spent to address them. Besides spending \$3 million for the press technology system and the pollution control equipment it is now committing to install, the dairies' manager spent more than 60 hours a week working on environmental issues during 2006.

Q: In summary, is there a "crisis" or "disaster" at Vreba-Hoff Dairy, as asserted in the Sierra Club press statements?

A: No, the Sierra Club is manufacturing a crisis where none exists. The manure backlog is safely stored in engineered concrete basins and clay-lined ponds designed to prevent pollution. They have not overflowed, and Vreba-Hoff has taken precautions to make sure they do not overflow. The small amount of winter application on the fields has been done in accordance with extra safety precautions to prevent manure from running into the streams.